Court No.2

Writ Petition No. 44(S/B) of 2002

Subhash Chandre …….. Petitioner

Vs.

State of Uttaranchal and others …… Respondents

……

Hon. P.C.Verma, A.C.J.

Hon. Irshad Hussain, J.

Heard Sri B.D. Upadhyaya, learned counsel for the petitioners and learned Standing Counsel.

This writ petition has been filed by the petitioner seeking a writ of mandamus to command the respondents to fill the vacant posts from the apprentice completed diploma holders or to give him relaxation in direct recruitment.

This petition may be decided in terms of the judgment of the Apex Court in the Case of U.P.State Road Transport Corporation and another Vs. U.P.Parivahan Nigam Shishukhs Berozgar Sang And Others (1995) 2SCCI, wherein it has been observed as under:

> "In the background of what has been noted above, we state that the following would be kept in mind while dealing with the claim of the trainees to get employment after successful completion of their training:
>
> (5) Other things being equal, a trained apprentice should be given preference over direct recruits.
>
> (6) For this, a trainee would not be required to get his name sponsored by the employment exchange. The decision of this Court in Union of India Vs. Hargopal AIR 1987 SC 1227, would permit this.
>
> (7) If age bar would come in the way of the trainee, the same would be relaxed in accordance, with that is stated in this regard, if any, in the concerned service rule. If the service rule be silent on this aspect, relaxation to the extent of the period for which the apprentice had undergone training would be given.
>
> (4)The training institute concerned would maintain a list of the persons trained yearwise. The persons trained earlier would be treated as senior to the persons trained later. In between the trained apprentice, preference shall be given to those who are senior.
>
> In so far as the cases at hand are concerned, we find that the Corporation filed an additional affidavit in CA Nos. 4347-4354 of 1990(as desired by the Court) on 20.10.1992 giving position regarding vacancies in the posts of conductors and clerks. If such posts be still vacant, we direct the Corporation to act in accordance with what

has been stated above regarding the entitlement of the trainees. We make it clear that while considering the cases of the trainees for giving employment in suitable posts, what has been laid down in the Service Regulations of the Corporation shall be followed, except that the trainees would not be required to appear in any written examination, if any provided by the Regulations. It is apparent that before considering the cases of the trainees, the requirement of their names being sponsored by the employment exchange would not be insisted upon. In so far as the age requirement is concerned, the same shall be relaxed as indicated above."

Considering the grievance canvassed in the writ petition that the petitioner has undergone training and he need to be given employment, the respondent authorities are directed to consider his claim and decide his representation in the light of the law laid down in the above decision by the apex Court. With this the petition is finally disposed of.

(P.C.Verma.A.C.J.) **(Irshad Hussain,J.)**

Dt. 18.07.2003

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